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December 11, 2000

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DEC 11 2000

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

Magalie Roman Salas  
Secretary  
Federal Communications Commission  
445 Twelfth St., S.W.  
Washington, D.C. 20554

**Re: Minnesota Public Utilities Commission Petitions for  
Agreement to Redefine the Service Area of Frontier  
Communications of Minnesota, Inc., DA 00-2661;  
CC Docket No. 96-45**

Dear Ms. Salas:

Western Wireless Corp. ("Western Wireless") supports the above-referenced petition of the Minnesota Public Utilities Commission, and urges the Commission *not* to initiate a proceeding, but rather to allow the petition to take effect pursuant to Section 54.207(c)(3)(ii) of the rules. For your information, Western Wireless respectfully submits copies of the comments and reply comments that it filed with the Minnesota Public Utilities Commission regarding this matter.

Respectfully submitted,



David L. Sieradzki  
Counsel for Western Wireless Corp.

Enclosures

cc: Richard D. Smith

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**DEC 11 2000**

**FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY**

**STATE OF MINNESOTA**

**BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION**

Gregory Scott	Chair
Edward A. Garvey	Commissioner
Joel Jacobs	Commissioner
Marshall Johnson	Commissioner
LeRoy Koppendrayner	Commissioner

In the Matter of Commission Investigation  
Into the Merits of Disaggregating  
Frontier's Study Area

MPUC Docket No. P-405/CI-00-79

**COMMENTS OF WWC HOLDING CO., INC.**

**1. INTRODUCTION**

WWC Holding Co., Inc. ("Western Wireless") hereby respectfully submits its comments on the merits of disaggregating the study area of Frontier Communications of Minnesota, Inc. ("Frontier") pursuant to the procedures in 47 C.F.R. § 54.207. For the reasons set forth below, Western Wireless recommends the Commission disaggregate Frontier's study area into service areas on an individual exchange basis for purposes of eligible telecommunications carrier ("ETC") designations under 47 U.S.C. § 214(e). The Commission should proceed to submit an application to the Federal Communications Commission ("FCC") under 47 C.F.R. § 54.207(c)(1) to effectuate this result.

## II. ANALYSIS

### A. **Legal Standard**

To be designated an ETC, a common carrier must offer and advertise all of the supported services set forth in 47 C.F.R. § 54.101(a) throughout the service areas for which it seeks designation. 47 U.S.C. § 214(e)(1). The Telecommunications Act of 1996 ("Act") defines the term "service area" as a "geographic area established by a State commission for the purpose of determining universal service obligations and support mechanisms". 47 U.S.C. § 214(e)(5); 47 C.F.R. § 54.207(a). In those areas served by a rural telephone company, the term "service area" means a company's "study area," unless the State and the FCC establish a different definition of the service area for a company after taking into account recommendations of the Federal-State Joint Board on Universal Service ("Joint Board"). 47 U.S.C. § 214(e)(5); 47 C.F.R. § 54.207(b). A rural local exchange carrier's ("LECs") study area is generally defined as all of the company's existing certificated exchange areas in a given State. In the Matter of Federal-State Joint Board on Universal Service, First Report and Order, CC Docket 96-45, 12 FCC Rcd. 8776, ¶ 172, fn. 434 (rel. May 8, 1997) ("First Report and Order").

The Act and the FCC's regulations require the FCC and the States to act in concert to develop an alternative service area for a rural LEC. The sole requirement in establishing a service area other than the study area is that the FCC and the State commission "take into account" the recommendations of the Joint Board when making such a determination. 47 U.S.C. § 214(e)(5); 47 C.F.R. § 54.207(b). The FCC has explained that "taking into account" means the State and the FCC must each give full consideration to the Joint Board's recommendations and must each explain their rationale for reaching a different conclusion. First Report and Order, ¶ 187.

The FCC initially defined a rural LEC's service area to be co-extensive with its study area based on the recommendations of the Joint Board. First Report and Order, ¶ 189. These recommendations were offered in its 1996 comments to the FCC, which predate the First Report and Order, and are the only Joint Board recommendations to date relating to the establishment of service areas for rural LECs under 47 U.S.C. § 214(e). In the Matter of Federal-State Board on Universal Service, CC Docket 96-45, 12 FCC Rcd. 87, ¶ 172 (rel. Nov. 8, 1996) ("Joint Board Recommendations"). Based on the Joint Board's comments, the FCC defined a rural LEC's service area as the study area, but cautioned that its decision was "at this time." First Report and Order, ¶ 189. The FCC's express caveat demonstrates that the service area designation based on a rural telephone company's study area is a default provision, open to modification as circumstances dictate and as a State commission and the FCC later deem warranted.

The FCC identified three factors initially recommended by the Joint Board which should be considered by the Commission and the FCC when determining the appropriateness of disaggregating Frontier's study area. The first factor is the risk of cream skimming. The FCC noted that if a competitor were required to serve a rural LEC's entire study area, the risk of "cream skimming" would be reduced because a competitive ETC would be prevented from selectively targeting service to only the lowest cost exchanges of the rural LEC's study area. First Report and Order, ¶ 189. As the Joint Board explained:

We note that some commenters argue that Congress presumptively retained study areas as the service area for rural telephone companies in order to minimize "cream skimming" by potential competitors. Potential "cream skimming" is minimized because competitors, as a condition of eligibility, must provide services throughout the rural telephone company's study area. Competitors would thus not be eligible for universal service support if they sought to serve only the lowest cost portions of a rural telephone company's study area.

Joint Board Recommendations, ¶172.

Second, a State commission and the FCC must consider the regulatory status enjoyed by rural LECs under the Act. The FCC thought a study area delineation for a rural LEC's service area was appropriate in recognition of the different treatment afforded to smaller rural LECs which are exempt from certain of the Act's requirements. First Report and Order, ¶ 189. In making its recommendation, the Joint Board had reasoned:

For example, rural telephone companies are initially exempt from the interconnection unbundling, and resale requirements of 47 U.S.C. § 251(c). The 1996 Act continues this exemption until the relevant state commission finds, inter alia, that a request of a rural telephone company for interconnection, unbundling, or resale would not be unduly economically burdensome, would be technically feasible, and would be consistent with section 254. Moreover, while a state commission must designate other eligible carriers for non-rural areas, states may designate additional eligible carriers for areas served by a rural telephone company only upon a specific finding that such a designation is in the public interest.

Joint Board Recommendations, ¶ 173.

The third factor to be considered is whether any administrative burdens might result from the disaggregation. A rural LEC's universal service support payments are currently based on a rural company's embedded costs determined at the study area level. First Report and Order, ¶ 189. The Joint Board initially expressed concern that rural LECs might have difficulty calculating costs on a less-than-study area level. The Joint Board stated:

Another reason to retain existing study areas is that it is consistent with our recommendation that the determination of the costs of providing universal service by a rural telephone company should be based, at least initially, on the Company's embedded costs. Rural telephone companies currently determine such costs at the study-area level. We conclude, therefore, that it is reasonable to adopt the current study areas as the service areas for rural telephone companies rather than impose the administrative burden of requiring rural telephone companies to determine embedded costs on a basis other than study areas.

Joint Board Recommendations, ¶ 174.

Despite its initial decision to adopt the study area as the rural LECs' service area, the FCC's comments reflect a policy favoring disaggregation in instances where a rural carrier's study area is large and/or non-contiguous. In response to issues raised by competitive LECs and wireless carriers who might not be able to provide facilities-based service throughout a rural company's entire study area, the FCC has expressly urged State commissions to explore disaggregation for purposes of ETC designations. The FCC stated: "We encourage states to consider disaggregating a rural telephone company's study area into service areas composed of the contiguous portions of that study area." First Report and Order, ¶ 129. The FCC further advised: "[U]niversal service policy objectives are best served if a state defines rural service areas to consist only of the contiguous portion of a rural study area, rather than the entire rural study area." Id. at ¶ 190. The FCC cautioned that requiring a new entrant to serve a non-contiguous service area as a prerequisite to ETC eligibility would impose a "serious barrier to entry, particularly for wireless carriers" and would be "particularly harmful to competition in rural areas, where wireless carriers could potentially offer service at much lower costs than traditional wireline service." Id.

The Act contemplates a joint federal-state process for establishing a service area that differs from a rural LEC's study area. The specific procedure for disaggregation is set forth in 47 C.F.R. § 54.207. No new definition of rural service area can take effect until the State commission and the FCC agree to the new definition. First Report and Order, ¶ 188. Once it has determined that a different service area definition is appropriate for a rural telephone company, the State commission must file an application seeking the FCC's consent. 47 C.F.R. § 54.207(c)(1). The petition must include the proposed service area definition and the State commission's ruling or other official statement detailing the reasons for adopting the proposed definition. The new service area definition

must take into account recommendations of any Federal-State Joint Board convened to provide recommendations regarding the definition of service area. 47 C.F.R. § 54.207(c)(1)(ii).

After receiving an application from a State commission, the FCC has 14 days within which it must issue a public notice. Id. at subd. (c)(2). The FCC may then choose to initiate a proceeding to consider the application. If the FCC has not acted within 90 days after the public notice, the proposal is deemed approved and may take effect according to State procedures. Id. at subd. (c)(3)(ii). The FCC has noted this process is intended to minimize administrative delay. First Report and Order, ¶ 188.

The FCC has stated it will evaluate and approve disaggregation petitions on a "case-by-case" basis. In the Matter of Petition for Agreement With Designation of Rural Company Eligible Telecommunications Carrier Service Areas and for Approval of the Use of Disaggregation of Study Areas for the Purpose of Distributing Portable Federal Universal Service Support, Memorandum Opinion and Order, CC Docket No. 96-45, DA 99-1844, ¶ 18 (Sept. 9, 1999) ("FCC Decision on Washington Disaggregation"). The FCC's decision will be made after its examination of the State commission's analysis that takes into account the Joint Board's recommendations. Id. at ¶9; See 47 C.F.R. ¶54.207(c).

#### **B. Procedural History of Western Wireless' ETC Designation**

On October 27, 1999, the Commission granted preliminary ETC status to Western Wireless in certain areas served by both rural and non-rural telephone companies. Order Granting Preliminary Approval and Requiring Further Filing, MPUC Docket No. P-5695/M-98-1285 (Oct. 27, 1999) ("ETC Order No. I"). The Commission found that Western Wireless met all basic criteria for ETC designation under 47 U.S.C. § 214(e), including the ability to offer and advertise the supported

services identified in 47 C.F.R. § 54.101(a). ETC Order No. I at 8-9. The Commission further concluded it was in the "public interest" to designate Western Wireless as an additional ETC in all areas served by rural LECs for which it sought designation. Id. The Commission reasoned that such designation in areas served by rural telephone companies would further "at least three of the goals underlying federal and state policies favoring competition - customer choice, innovative services, new technologies." Id. at 16. Accordingly, the Commission granted preliminary ETC approval to Western Wireless in all of its requested service areas. Id. at 21. Because the Commission initially determined Frontier was a non-rural telephone company (See Id. at 12), the Commission's preliminary grant of ETC status to Western Wireless included 29 separate Frontier exchanges. (MCC Ex. 4, pp. 7-9).<sup>1</sup>

The Commission later determined that Frontier is a "rural telephone company" as defined in 47 U.S.C. § 153(37). Order Acting on Petitions for Reconsideration and Opening Investigation, MPUC Docket No. P-405/CI-00-79, at 4 (Feb. 10, 2000) ("ETC Order No. II"). As a result, the Commission had to rescind the grant of ETC designation to Western Wireless in the 29 Frontier exchanges. See ETC Order No. II at 5. The rescission was necessary because Western Wireless admittedly could not serve 16 of the 45 exchanges comprising Frontier's Minnesota study area. (MCC Ex. 2, pp. 22-23).

In its decision voiding Western Wireless' ETC status in the 29 Frontier exchanges, the Commission also examined the likelihood that Frontier's large study area could act as a bar to any competition whatsoever. The Commission acknowledged the concerns raised by the Department of Commerce ("Department") and Western Wireless that "that the size, complexity, and diversity

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<sup>1</sup> References to the evidentiary record in MPUC Docket No. P-5695/M-98-1285 will be designated as party's exhibit and page number.



of Frontier's study area could prevent any carrier from qualifying for ETC status there, depriving consumers of the benefits of competition." ETC Order No. II at 5. Noting it "is committed to furthering competition throughout the state," the Commission determined to open this disaggregation investigation. Id. at 5.

On April 21, 2000, the Commission granted final ETC approval to Western Wireless in all areas requested, except for 29 exchanges in Frontier's study area. Notice of Administrative Approval of Compliance Filing, MPUC Docket No. P-5695/M-98-1285 (April 21, 2000).

**C. Western Wireless Proposes a Disaggregation Plan for Frontier Based on Individual Exchanges**

Western Wireless recommends that the Commission seek to disaggregate Frontier's study area on an individual exchange basis for purposes of its service area under 47 U.S.C. § 214(e). Frontier is a multi-exchange rural telephone company. Frontier's current Minnesota study area is comprised of 45 separate exchanges located in the Southwestern, South Central and Twin Cities Metropolitan areas of Minnesota. (See Map of Western Wireless Cellular Coverage and Frontier Exchanges set forth as Attachment A; MCC Ex. 3.) The most logical disaggregation design is by individual exchange areas. Redefining Frontier's study area into 45 separate service areas based on individual exchanges for purposes of ETC designations will promote competition by eliminating a barrier to entry into the universal services market. This approach also would enable Western Wireless to be designated a federal ETC in the 29 Frontier exchanges within its existing licensed and signal coverage area consistent with the previous public interest determination of the Commission. Id.

**D. Consistent with FCC's Directives, the Goals of Universal Service and the Joint Board's Comments, Frontier's Study Area Should be Disaggregated on an Exchange Basis**

The Commission can proceed to disaggregate Frontier's study on an exchange-by-exchange basis while appropriately taking into account the three factors noted by the Joint Board and adopted by the FCC. The first factor relating to a risk of cream skimming is not present. Western Wireless seeks disaggregation of Frontier's service area on an individual exchange basis so it can be designated an ETC in those areas for which it is licensed and has the ability to provide facilities-based services. (Attachment A; MCC Ex. 1, p. 7; MCC Ex. 2, pp. 22-23). Included in these areas are Frontier's rural exchanges in Southwestern Minnesota, which presumably represent areas of lower density and higher costs. Excluded from Western Wireless' service area are Frontier's more urban exchanges such as Burnsville, Apple Valley and Rosemount, which presumably represent areas of higher density and lower costs. (See Attachment A; MCC Ex. 3). Disaggregation on an individual exchange basis will preserve and advance universal service by establishing designated service areas that are more reflective of the areas actually served. Disaggregation furthers competition and protects Frontier from Western Wireless selectively targeting specific key exchanges in the hope of garnering the lowest cost service areas. In short, there will be no opportunity for cream skimming.

Moreover, smaller service areas based on individual Frontier exchanges will be more accessible to new ETC providers and thus further the competitive and universal service goals expressed by the Act and the Commission. In commenting on the disaggregation issue during the Western Wireless ETC hearing, the Department's witness Dr. Krishnan explained:

One reason the FCC retained the entire study area of rural telephone companies as the service area was that competitors will not be able to target customers that are the least expensive to serve and thus

undercut the incumbent telephone companies' ability to serve the entire area. The FCC, however, subsequently indicated that designation of service areas that are unreasonably large could significantly increase the scale of operations required of new entrants and thus constitute entry barriers. The FCC also recognized such barriers were unnecessary to preserve and advance universal service.

(Dept. Ex. 46, p. 15, (citing First Report and Order, ¶ 129)). Western Wireless also notes that most of those who offered comments to the Joint Board supported using service areas that are smaller than the existing rural LEC study areas. Joint Board Recommendations, ¶ 170.

The second Joint Board factor relating to the special status of rural LECs can also appropriately be taken into account by disaggregating on an exchange basis. The disaggregation of Frontier's service area on an individual exchange basis will not compromise or impair Frontier's unique treatment as a rural telephone company under the Act. The Commission has expressly determined Frontier is a "rural telephone company" for purposes of the Act. ETC Order No. I at 6. This determination entitles Frontier to the special status under 47 U.S.C. § 251(f). Consequently, Frontier will still retain the statutory exemptions from interconnection, unbundling and resale requirements under 47 U.S.C. § 251(c) even if its service area is disaggregated for purposes of ETC designations.

More significantly, the Act's public interest factor for the designation of an additional ETC in Frontier's service areas under 47 U.S.C. § 214(e)(2) will remain in place. The continued existence of the public interest standard was noted by the FCC as a safeguard available to a State commission to support a disaggregation request for service areas on a less-than-study area level. First Report and Order, ¶ 190. This public interest factor will remain as an effective check to prevent the designation of an additional competitive ETC who may seek to target only low cost areas or otherwise pose a detriment to Frontier's rural consumers. Thus, Frontier would retain its unique

status and special treatment as a "rural telephone company" under the Act consistent with the Joint Board's recommendations if its study area were disaggregated on an individual exchange basis.

The third and final Joint Board factor relating to the administrative ease of calculating Frontier's costs on a less-than-study area level is likewise not an issue. There are no administrative costs to consider because Frontier currently does not receive any high cost support from the federal Universal Service Fund. See Universal Service Administrative Corporation Report, High Cost Fund Support by Study Area, Second Quarter 1999 at 14 (Jan. 29, 1999). If Frontier were to qualify for or seek federal high cost support in the future, its universal service support could still be calculated on a study area basis. 47 C.F.R. §§ 54.301 and 54.303. Likewise, any support available to Western Wireless as a competitive ETC in an area served by Frontier would be determined based on the per-line support available to Frontier. 47 C.F.R. § 54.307(a). Moreover, this current funding mechanism will remain in place for Frontier only until the year 2001 when the FCC is expected to announce new funding rules for rural LECs. FCC Decision on Washington Disaggregation, ¶ 7.<sup>2</sup>

Accordingly, the Commission should act to disaggregate Frontier's study area on an individual exchange basis to foster competition and bring new telecommunications services to rural Minnesota. The Commission's decision to disaggregate Frontier's study area for purposes of ETC designations does not change Frontier's status as a "rural telephone company" under the Act. See 47 C.F.R. § 54.207(b) (providing that in those areas served by a rural telephone company, service area means the company's study area unless the State and the FCC establish a different definition

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<sup>2</sup>If Frontier contends there would be additional administrative costs or inconvenience in calculating any such universal service support on an exchange basis caused by disaggregation in this instance, in the absence of any current support payments and on the verge of the FCC's new funding rules, it must carry the burden to demonstrate them to the Commission.

of service area for a rural company) (emphasis added). Based on the facts of this case and consistent with the factors articulated by the FCC based on the Joint Board's recommendations, the Commission should order disaggregation of Frontier's study area on an individual exchange basis.

**E. Disaggregation of Frontier's Study Area is Necessary to Promote Competition and Advance Universal Service**

Frontier is certificated to provide service in 45 scattered exchanges throughout Minnesota. (Attachment A; MCC Ex. 2, p. 22). At present, Western Wireless is licensed and provides the FCC's supported services in 29 of the Frontier exchanges. However, Western Wireless is precluded from being designated as an ETC in any of the Frontier exchanges because Western Wireless cannot serve them all. *Id.* When, as here, a rural LEC's study area stretches across the State, it is impracticable for Western Wireless or any other facilities-based carrier to compete with Frontier. This is not an issue of cream skimming. It is simply an issue of the practical limits of Western Wireless' authorized service boundaries.

The disaggregation of Frontier's study area on an exchange basis is necessary to promote competition and advance universal service. Disaggregation is in the public interest because it will enable Western Wireless to bring new services and new technologies to customers of Frontier, who now have no choice of providers. Unless the Commission establishes a different definition of service area for Frontier in this proceeding, Frontier's wide-ranging study area will pose an impenetrable barrier to entry for not only Western Wireless, but also any other competitive carrier, especially cellular providers, seeking ETC status. Because competitor and incumbent service territories are geographically different, it would be nearly impossible for any other competitive carrier to compete with Frontier.

Frontier's large and non-contiguous study area creates a disincentive to competition. This type of barrier to entry was appropriately recognized by the Washington Commission which successfully applied to the FCC to disaggregate the study areas of rural LECs in its State. The Washington Commission noted: "The designation of the service area impacts the ease with which competition will come to rural areas . . . . The wider the service area defined by the state commission, the more daunting the task facing a potential competitor seeking to enter the market." Washington Util. & Transp. Comm'n, Docket No. 970380, Petition for Agreement With Designation of Rural Company Eligible Telecommunications Carrier Service Areas at the Exchange Level and for Approval of the Use of Disaggregation of Study Areas for the Purpose of Distributing Portable Federal Universal Service Support, at 3, (Aug. 1998). The Washington Commission concluded that smaller service areas for the designation of ETCs in rural areas will promote competition and speed deregulation. Id. at 9.

The FCC has previously determined that disaggregation of rural study areas to an exchange basis facilitates local competition by enabling new providers to serve relatively small areas. FCC Decision on Washington Disaggregation, ¶ 8. The FCC noted: "We find that our concurrence with rural LEC petitioners' request for designation of their individual exchanges as service areas is warranted in order to promote competition." FCC Decision on Washington Disaggregation, ¶ 8. The FCC concluded that Washington's "effort to facilitate local competition justifies [the FCC's] concurrence with the proposed service area designation." Id.

In reaching its decision, the FCC examined the Washington Commission's consideration of the Joint Board's recommendations and found that the Commission had given adequate consideration to each of the three factors. The FCC stated: "We also conclude that the Washington Commission

has addressed the concerns expressed by the Federal-State Joint Board on Universal Service, as required by the Act and the Commission's rules." Id. at ¶ 9.

The Commission has already determined Western Wireless is qualified to be an ETC and that such designation in areas served by other rural telephone companies is in the public interest. ETC Order No. I. Western Wireless stands willing and able to provide universal service to the consumers in the 29 Frontier exchanges which fall within its existing licensed and signal coverage area. These rural consumers should not be denied the benefits of competition just because Frontier's study area is so expansive and diverse. As the Department's witness Dr. Krishnan previously testified, disaggregating Frontier's study area under these circumstances would preserve and promote universal service:

Universal service is not advanced when a portion of the licensed area that is indeed being served presently by Western Wireless is not eligible for universal service support simply because Minnesota Cellular's coverage does not extend to other parts of the study area. . . . [L]imiting the service area constitutes a significant barrier to entry which is not necessary for the advancement of universal service.

(Dept. Ex. 46, p. 16).

As was the case in Washington, the disaggregation of the Frontier study area to an individual exchange basis will foster competition in Minnesota. Disaggregating Frontier's study area for purposes of determining ETC service areas will enable Western Wireless and other carriers to offer competitive universal services to Frontier's customers. This fostering of competition comports with the goals of the Act and the FCC's directives. Unless the Commission seeks disaggregation, the customers of Frontier's 29 exchanges Western Wireless desires to serve will be denied all the benefits of competition the Commission recognized was in the public interest. Accordingly, this

Commission should order that Frontier's study area be disaggregated on an individual exchange basis for ETC purposes.

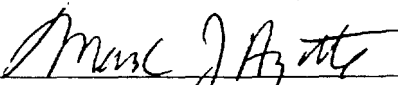
### **III. CONCLUSION**

Western Wireless respectfully requests the Commission to disaggregate the study area of Frontier on an individual exchange basis for ETC purposes and to petition the FCC to effectuate this result.

Respectfully submitted,

BRIGGS AND MORGAN, P.A.

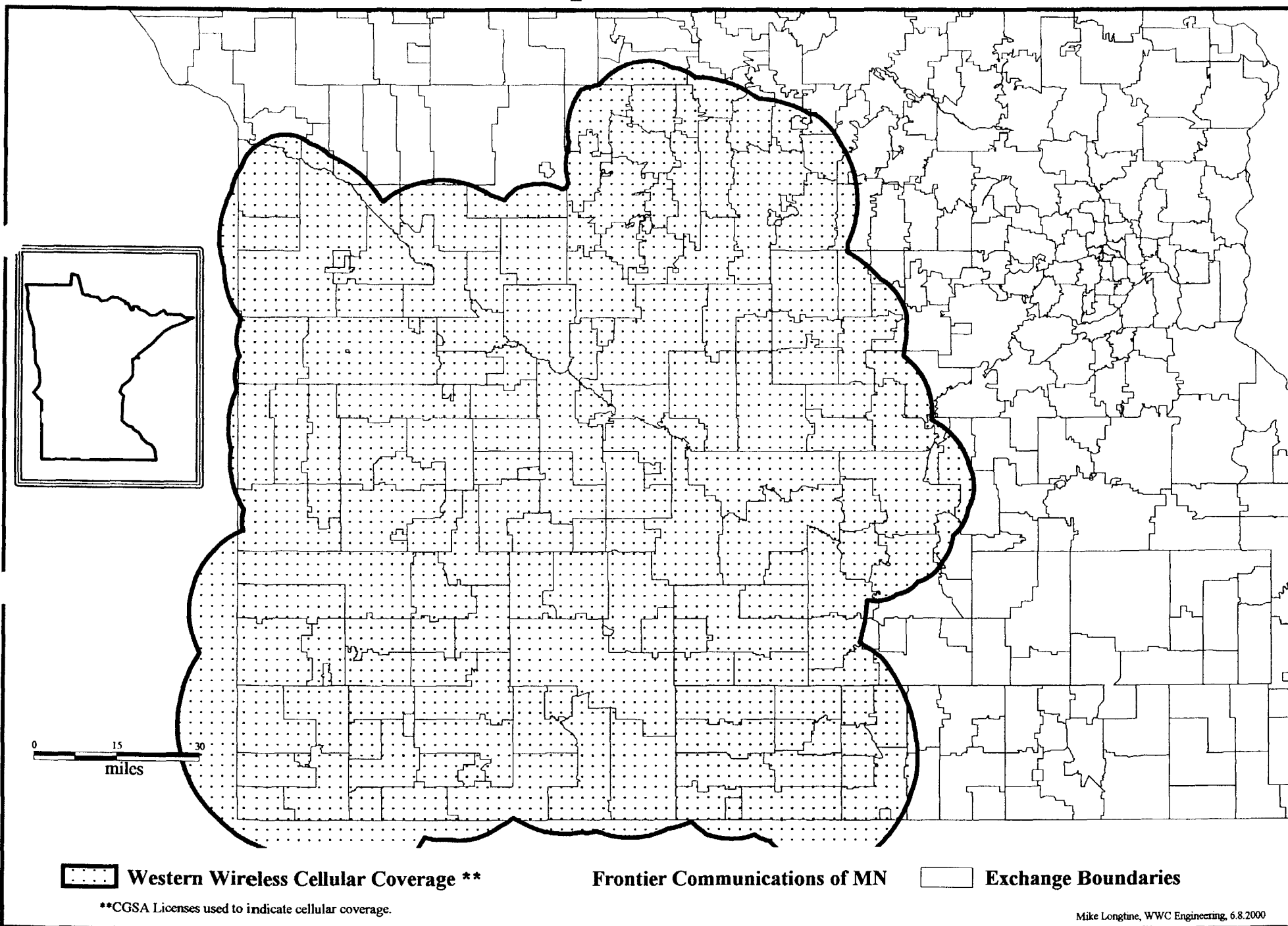
Dated: June 12, 2000

By   
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**ATTORNEYS FOR WWC HOLDING CO., INC.**



# Western Wireless Corporation - Southern Minnesota



**STATE OF MINNESOTA**  
**BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION**

Gregory Scott	Chair
Edward A. Garvey	Commissioner
Joel Jacobs	Commissioner
Marshall Johnson	Commissioner
LeRoy Koppendraye	Commissioner

In the Matter of Commission Investigation  
Into the Merits of Disaggregating  
Frontier's Study Area

MPUC Docket No. P-405/CI-00-79

**REPLY COMMENTS OF WWC HOLDING CO., INC.**

**I. INTRODUCTION**

WWC Holding Co., Inc. ("Western Wireless") hereby respectfully submits its reply comments on the merits of disaggregating the service area of Frontier Communications of Minnesota, Inc. ("Frontier") pursuant to the procedures in 47 C.F.R. § 54.207. As more fully discussed below, Western Wireless supports the recommendations of the Department of Commerce ("Department") to petition the Federal Communication Commission ("FCC") to establish Frontier's service area on an exchange-by-exchange basis for purposes of ETC designations. The Department's analysis comports with the FCC's directives and its recommendation furthers the competitive goals of the Telecommunications Act of 1996 ("Act"). Similarly, Western Wireless responds to the comments of Frontier, which fail to acknowledge and appreciate the dynamic nature of universal service subsidies in the United States telecommunications market.

## **II. ANALYSIS**

### **A. The Department Correctly Recommends Disaggregation of Frontier's Service Area On an Exchange Basis.**

The Department, consistent with the views of Western Wireless, recommends that Frontier's service area be disaggregated on an exchange-by-exchange basis. (Department Comments at 5). The Department reaches this conclusion using the same analytical and legal approach offered by Western Wireless. First, the Department acknowledges the FCC's preference for smaller service areas to encourage competition by competitive local exchange carriers ("CLECs"), particularly wireless carriers. (*Id.* at 3). The Department further notes that the FCC encourages "State commissions not to adopt, as service areas, the study areas of large ILECS" and that Frontier is a "large ILEC, with 45 exchanges and over 130,000 access lines in service in Minnesota." (*Id.* at 3).

The Department also correctly reviews the rationale of the Commission for granting eligible telecommunications carrier ("ETC") status to Western Wireless in areas served by rural telephone companies and recognizes that the same goals of increasing competition, customer choice, new technologies and innovative services would be served if Western Wireless and other CLECs could serve all or part of Frontier's territory. (*Id.* at 4). The Department properly concludes that disaggregation of Frontier's service area is necessary for the benefits of competition to reach these rural areas and is in the public interest, reasoning: "If Frontier's service area is not disaggregated from the study area level, Frontier's customers will be denied the benefits of competition from carriers who are not able to serve the entire study area." (*Id.* at 4).

The Department also agrees with Western Wireless' proposal to disaggregate Frontier's service area on an exchange-by-exchange basis. (*Id.* at 4). Frontier offered no disaggregation

proposal in its Comments. As noted by the Department, "Disaggregating to the exchange level would allow CLECs who are designated a federal ETC to receive future federal high-cost funds, if any, for those exchanges in which they serve." (Id. at 4).

Finally, the Department identifies and reviews the three concerns cited by the Federal-State Joint Board as required by the FCC for disaggregation. (Id. at 5). These are the same items addressed in Western Wireless' initial comments. (Comments of Western Wireless at 9-12). The Department specifically notes that two of the concerns -- cream skimming and the administrative expenses of determining current federal universal service payments based on embedded costs on an exchange basis -- were not relevant because Frontier currently receives no high-cost support. (Id. at 5). The Department points out, however, that the FCC will likely address this issue in 2001 when it adopts a new high-cost support mechanism for rural carriers. (Id. at 5). Even if Frontier received high-cost support, disaggregation would be in the public interest because support could then be targeted to those high-cost areas with the most need. The third concern, that a rural telephone company's special status continue to be recognized, would be supported because disaggregation "does not reduce the careful consideration, including the public interest determination, that the Commission must give to any application by a CLEC for federal ETC status in one or more Frontier exchange[s]." (Id. at 5).

Thus, the Department correctly recommends that the Commission establish exchange-based service areas in Frontier's study area and that the Commission submit a petition for disaggregation with the FCC pursuant to 47 C.F.R. § 54.207(c)(1). These recommendations are consistent with Western Wireless' comments. The Commission should follow the Department's recommendations.

**B. Frontier's Opposition to Disaggregation Must Be Disregarded Because Frontier Fails to Identify Any Sound Reason to Retain its Current Service Area Definition.**

Frontier's primary argument against disaggregation of its service area relates solely to the existing federal funding mechanisms for high-cost support. Frontier essentially claims that because it does not currently receive federal universal service subsidies, Western Wireless would not receive subsidies, therefore there is no reason to bring a new competitor to any of Frontier's territories. (Frontier Comments at 2-3). Frontier's argument is short-sighted and ignores not only the needs of rural consumers as recognized by this Commission, but also the rapidly changing world of telecommunications regulation.

Frontier is correct in stating that if granted ETC status in any portion of Frontier's study area, Western Wireless, under the current federal funding mechanisms, would be eligible to receive the same high-cost subsidies as Frontier currently receives. Contrary to Frontier's assertions, however, it is not entirely clear that Frontier does not currently receive, or will not receive in the future, federal universal service support. Federal universal service support consists of the high-cost fund, the low-income fund, and any universal service fund created by access charge reform. In terms of the high-cost fund, as noted by the Department, the FCC has announced it will establish new funding mechanisms in 2001 for areas served by rural telephone companies, which may increase Frontier's eligibility for support, (Department Comments at 2), and thus the support available to Western Wireless as a competing ETC. 47 C.F.R. § 54.307(a).

In terms of low-income support, Frontier receives reimbursement for Lifeline and Linkup customers today, and likewise Western Wireless, if designated, would be eligible to receive universal funds for its Lifeline and Linkup customers. Additionally, the FCC has reformed the access charge

regime for areas served by non-rural telephone companies resulting in the establishment of new universal service funding and will likewise do the same in rural telephone company (e.g., Frontier) areas.

It also bears noting that, universal support levels will change in response to the broad policy objective of the Act to promote local competition and make implicit subsidies benefitting incumbent LECs a thing of the past. The current system relies primarily on three implicit subsidy mechanisms to support low rates for consumers -- geographic rate averaging, interstate access charges and subsidizing residential lines via business lines. In the Matter of Federal-State Joint Board on Universal Service, First Report and Order, CC Docket 96-45, 12 FCC Rcd. 8776, ¶ 12 (rel. May 8, 1997) ("First Report and Order"). It is through these implicit mechanisms that States have kept residential basic service rates low in a monopolistic market. Id. at ¶ 14. In a competitive environment, as envisioned and encouraged by the Act, the FCC has recognized that these three implicit subsidies, and others yet to be identified, cannot survive. Id. at ¶ 17. A primary goal of universal service is to make the amount of support explicitly calculable, identifiable and portable among competing carriers. Id. at ¶ 15. The Act aims to replace implicit subsidies for universal service support with explicit subsidies. See First Report and Order, ¶ 9. Frontier's Comments simply ignore the short-life expectancy of the current implicit subsidy scheme.

For the goal of explicit universal service support to be achieved, there must be competition. Competition will compel States to make support explicit. Id. at ¶ 14. It is the competition that will aid States and the FCC in identifying other sources of implicit support for elimination. Id. at 15. When these changes take place, Frontier will likely be in a very different subsidy position than it is

now-- particularly with respect to its more rural areas -- and eligible for high-cost support. Western Wireless must have ETC designation to compete.

This ETC designation is necessary because only carriers designated as ETCs are eligible for federal universal support. 47 C.F.R. § 54.307. As implicit subsidies decrease, explicit subsidies must increase. Therefore, it is anticipated that Frontier, once stripped of implicit subsidies, will receive additional explicit subsidies. Without ETC designation, Western Wireless will be unable to compete on an equal footing.

Accordingly, the Commission should proceed with disaggregation of Frontier's service area.

### **III. CONCLUSION**

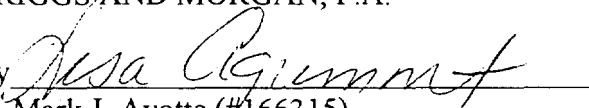
In furtherance of the goals of the Act, the Commission, consistent with the Western Wireless' comments and the Department's recommendation, should establish a service area definition for Frontier based on individual exchanges and petition the FCC for approval of the disaggregation.

Respectfully submitted,

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